

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ALAN SMITH, : CIVIL NO. 4:10-CV-2133  
:   
PLAINTIFF, :   
: (JUDGE RAMBO)  
VS. :   
:   
JANINE DONATE, ET AL., : (MAGISTRATE JUDGE CARLSON)  
:   
DEFENDANTS, :

PLAINTIFFS BRIEF IN SUPPORT  
OF MOTION TO COMPEL DISCOVERY

FILED  
SCRANTON  
JUL 18 2012  
PER ~~DEPUTY CLERK~~

I. STATEMENT OF THE CASE

PLAINTIFF ALAN SMITH COMMENCED THE ABOVE-CAPTIONED ACTION ON OCTOBER 15, 2010, BY FILING A COMPLAINT COMPRISED OF 224 SEPARATELY NUMBERED PARAGRAPHS, IN WHICH 14 CORRECTIONS OFFICERS, PRISON EMPLOYEES AND OTHER INDIVIDUALS AT THE LACKAWANNA COUNTY PRISON SUBJECT-ED THE PLAINTIFF TO BEATINGS, HARASSMENT AND OTHER MALICIOUS CONDUCT DURING A 48-DAY PERIOD BETWEEN NOVEMBER 19, 2008 TO JANUARY

5, 2009, WHEN THE PLAINTIFF WAS TEMPORARILY HOUSED AT THE PRISON AS A WITNESS TO A GRAND JURY PROCEEDING. PLAINTIFF BROUGHT THIS ACTION PURSUANT TO 42 U.S.C § 1983, STATING THAT THE PLAINTIFFS TREATMENT AT THE HANDS OF THE DEFENDANTS VIOLATED HIS RIGHT TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT UNDER THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION, AND ALSO HIS RIGHT TO DUE PROCESS UNDER THE FOURTEENTH AMENDMENT.

## II. STATEMENT OF THE FACTS

ON 6/09/12, THE PLAINTIFF RECEIVED A MEMORANDUM ORDER (DOC.149) FROM JUDGE CARLSON STATING THAT ON OR BEFORE 7/09/12 THE DEFENDANTS SHALL PROVIDE TO THE PLAINTIFF A FORM OF DISCLOSURE OF THE INFORMATION IN THEIR POSSESSION REGARDING TO THE PLAINTIFFS PRIOR MOTION TO COMPEL DISCOVERY, PLEASE REFER TO (DOC.149).

ON 7/11/12, THE PLAINTIFF RECEIVED A RESPONSE, A 2-PAGE (TABLE), FROM THE DEFENDANTS COUNSEL, MR. McDONOUGH, IN WHICH WAS DATED 7/06/12. IN (DOC. 149) JUDGE CARLSON STATED THAT UPON PLAINTIFFS RECEIPT OF THIS INFORMATION, IF THE PLAINTIFF BELIEVES THAT FURTHER DISCLOSURE IS NECES-

SARY, HE SHALL RENEW THIS MOTION TO COMEL ON OR BEFORE 7/23/12, AGAIN PLEASE REFER TO (DOC. 149 - PAGE - 5). PLAINTIFF NOW RENEWS SAID MOTION FOR THE FOLLOWING REASONS:

1. THE INFORMATION 2-PAGE (TABLE) THAT ATTORNEY SEAN MCDONOUGH SENT TO ME WAS VERY VAGUE, INCOMPLETE, WITH NUMEROUS MISSING ENTRIES, PLEASE REFER TO SAID TABLE ON RECORD WITH THIS COURT.
2. THE (TABLE) ALSO LACKS ANY INFORMATION ON DEFENDANTS BLUME, DONATE, KEARNEY AND MOSKWA, IN WHICH RAISES MANY RED FLAGS AND QUESTIONS?
3. THE INFORMATION IN THE TABLE REGARDING TO DEFENDANT ZEMANTAUSKI IS VERY MISLEADING/DECEITFUL. IT STATES HIS ALLEGED MISCONDUCT WAS (DISREGARDING ORDERS)? PLEASE REFER TO (DOC. 133), REGARDING THE REAL REASON HE WAS TERMINATED FROM THE L.C.P. "IT WAS BECAUSE HE FALSIFIED ENTRIES IN THE L.C.P R.H.U LOG BOOK"; AGAIN PLEASE THOROUGHLY READ (DOC. 133).
4. WHAT OTHER INFORMATION IN THE (TABLE) IS ALSO PRESENTED IN A DECEITFUL/MISLEADING WAY? ATTORNEY MCDONOUGH/DEFENDANTS IN THIS MATTER ARE IN FACT BEING DECEITFUL/MISLEADING IN THE VERY VAGUE/

INCOMPLETE PREPARATION OF THE INFORMATION THAT THEY PROVIDED THE PLAINTIFF REGARDING TO (DOC. 149).

5. PLAINTIFF IN THIS BRIEF HAS GIVEN ENOUGH PROOF THAT ATTORNEY MCDONOUGH/DEFENDANTS ARE TRYING TO TAMPER WITH/COVER UP THE INFORMATION THAT JUDGE CARLSON ORDERED THE DEFENDANTS TO PRODUCE FOR THE PLAINTIFF REGARDING (DOC. 149).

### CONCLUSION

WHEREFORE, PLAINTIFF IS RESPECTFULLY ASKING THIS COURT TO ORDER DEFENDANTS TO PRODUCE ALL COPIES OF THE ORIGINAL DOCUMENTS THAT THE L.C.P HAS ON FILE AND IN THEIR POSSESSION REGARDING TO ALL OF THE INFORMATION/DOCUMENTS THAT HONORABLE JUDGE CARLSON ORDERED THE DEFENDANTS TO PRODUCE FOR THE PLAINTIFF REGARDING TO (DOC. 149).

DATE: July 15, 2012

RESPECTFULLY SUBMITTED,  
Alan Smith  
ALAN SMITH GZ-2324  
S.C.I MAHANAY  
301 MOREA ROAD  
FRACKVILLE, PA. 17932

## CERTIFICATE OF SERVICE

I, PLAINTIFF ALAN SMITH, PRO SE, HEREBY CERTIFY THAT ON THE 15 TH DAY OF JULY, 2012, I SERVED THE FOREGOING PLAINTIFFS MOTION/BRIEF COMPELLING DISCOVERY, UPON THE PERSONS AS FOLLOWS:

VIA FIRST CLASS MAIL, POSTAGE PREPAID;

WILLIAM J. NEALON FEDERAL BUILDING  
CLERK OF COURTS OFFICE  
235 N. WASHINGTON AVE.  
SCRANTON, PA. 18501-1148

MR. SEAN P. MCDONOUGH, ESQUIRE  
75 GLENMAURA NATIONAL BLVD.  
MOOSIC, PA. 18503

DATE: July 15, 2012

RESPECTFULLY SUBMITTED,  
*Alan Smith*  
ALAN SMITH GZ-2324  
S.C.I MAHANAY  
301 MOREA ROAD  
FRACKVILLE, PA. 17932